

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

TEAMSTERS LOCAL UNION *
NO. 355 A/W INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, *
AFL-CIO

Plaintiff *

vs. * CIVIL ACTION NO. MJG-02-568

PERISHABLE DELIVERIES, INC. *

Defendant

* * * * *

MEMORANDUM AND ORDER

The Court has before it Defendant's Motion for Costs Including Attorney's Fees and the materials submitted relating thereto. The Court finds that a hearing is unnecessary.

In the Judgment Order herein the Court awarded "costs" to Defendant. The term "costs" in that context means taxable costs under 28 U.S.C. § 1920 and does not include attorneys fees.

Rule 54(d)(1) of the Federal Rules of Civil Procedure provides for costs other than attorneys fees to be allowed as a matter of course. Defendant has not specified any particular basis upon which the Court should grant an award of legal fees in the instant case. Nor did Defendant reply to Plaintiffs' opposition asserting that there was no basis for the award of legal fees.

As noted in the Memorandum and Order issued herein, the instant case presented an issue of first impression the Fourth Circuit as to which other courts had given conflicting answers. Plaintiff's position was nonfrivolous. There is no basis whatsoever for an award of legal fees.

For the foregoing reasons:

1. Defendant's Motion for Costs Including Attorney's Fees is DENIED.
2. The Clerk shall proceed to award taxable costs pursuant to 28 U.S.C. § 1920.

SO ORDERED, on Thursday, 17 July, 2003.

_____/ s /_____
Marvin J. Garbis
United States District Judge